

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
LITTLE MISSOURI RIVER BASIN ABOVE LITTLE BEAVER CREEK (39F)
PRELIMINARY DECREE

* * * * *

CLAIMANT: Courtney Herefords

CASE 39F-0498-R-2022

39F 128413-00	39F 140508-00
39F 128415-00	39F 140511-00
39F 128429-00	39F 140513-00
39F 128437-00	39F 175505-00
39F 128442-00	39F 175513-00
39F 140501-00	39F 175515-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

Water Right Claims 39F 128413-00, 39F 128415-00, 39F 128429-00, 39F 128437-00, 39F 128442-00, 39F 140501-00, 39F 140508-00, 39F 140511-00, 39F 140513-00, 39F 175505-00, 39F 175513-00, and 39F 175515-00 appeared in the

Preliminary Decree for the Little Missouri River, above Little Beaver Creek (Basin 39F). These claims received issue remarks. Issue remarks result from Department of Natural Resources and Conservation (“DNRC”) claims examination or by Water Court order. Claims examination confirms the historical use of water right claims and identifies issues with claims. If claims examination cannot confirm some aspect of a claim, an issue remark is added to the claim. These claims did not receive any objections or notices of intent to appear.

The Court consolidated these claims into Water Court Case 39F-0498-R-2022 on October 18, 2022. The consolidation order set a filing deadline by which Claimant was to file information resolving the issue remarks. Claimant did not respond by the filing deadline.

FINDINGS OF FACT

1. Claims 39F 128413-00, 39F 128442-00, and 39F 140501-00 appeared with the following issue remark:

THE MEANS OF DIVERSION FOR POINT OF DIVERSION NUMBER 2 APPEARS INCORRECT. THE MEANS OF DIVERSION FOR POINT OF DIVERSION NUMBER 2 APPEARS TO BE LIVESTOCK DIRECT FROM SOURCE.

2. Claims 39F 128415-00, 39F 128437-00, 39F 140501-00, 39F 140508-00, 39F 140513-00 appeared with the following issue remark:

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

3. Claims 39F 140501-00, 39F 140508-00, and 39F 140513-00 appeared with the following issue remark:

RESERVOIR RECORD WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE

ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

4. Claims 39F 175505-00 and 39F 175513-00 appeared with the following issue remark:

POINT OF DIVERSION AND RESERVOIR RECORD WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

5. Claim 128415-00 also appeared with the following issue remarks:

THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE 1 NENWNW SEC 19 TWP 8S RGE 62E CARTER COUNTY.

THE PRIORITY DATE MAY BE QUESTIONABLE. THE SOURCE DESCRIBED ON THE FILED NOTICE OF APPROPRIATION IS INCONSISTENT WITH THE CLAIMED SOURCE.

POINT OF DIVERSION NO. 1 APPEARS TO BE INCORRECT. POINT OF DIVERSION NO. 1 APPEARS TO BE IN GOVT LOT 1 (NENWNW) SEC 19 TWP 8S RGE 62E CARTER COUNTY. POINT OF DIVERSION NO. 2 APPEARS TO BE UNNECESSARY.

THE PLACE OF USE APPEARS TO NEED MODIFICATION BASED ON THE DNRC CORRECTION TO THE POINT OF DIVERSION. THE CORRECT PLACE OF USE NO. 1 LEGAL LAND DESCRIPTION APPEARS TO BE GOVT LOT 1 (NENWNW) SEC 19 TWP 8S RGE 62E CARTER COUNTY AND PLACE OF USE NO. 2 APPEARS TO BE GOVT LOT 4 (SESWSW) SEC 18 TWP 8S RGE 62 E CARTER COUNTY.

THE RESERVOIR APPEARS TO NEED MODIFICATION BASED ON THE DNRC CORRECTION TO THE POINT OF DIVERSION. THE CORRECT RESERVOIR LEGAL LAND DESCRIPTION APPEARS TO BE GOVT LOT 1 (NENWNW) SEC 19 TWP 8S RGE 62E CARTER COUNTY.

THE CLAIMED SOURCE MAY BE QUESTIONABLE. BASED ON AVAILABLE DATA, THE SOURCE MAY BE SURFACE WATER FROM HORSE CREEK.

6. Claim 39F 128429-00 appeared with the following issue remark:

POINT OF DIVERSION NO. 2 APPEARS TO BE UNNECESSARY.

7. Claim 39F 175515-00 appeared with the following issue remarks:

POINT OF DIVERSION WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

THE PLACE OF USE APPEARS TO NEED MODIFICATION BASED ON THE DNRC CORRECTION TO THE POINT OF DIVERSION. THE CORRECT PLACE OF USE LEGAL LAND DESCRIPTION APPEARS TO BE THE SESWNW SEC 34 TWP 8S RGE 61E CARTER COUNTY.

THE RESERVOIR RECORD LEGAL LAND DESCRIPTION APPEARS INCORRECT. THE RESERVOIR RECORD LEGAL LAND DESCRIPTION APPEARS TO BE SESWNW SEC 34 TWP 8S RGE 61E CARTER COUNTY.

8. Claimant did not file responsive information addressing the issue remarks.

Claim 39F 128413-00

9. The original Statement of Claim for Claim 39F 128413-00 indicates a dam was built in the SWSEW of Section 17, T8S, R62E. An affidavit was included as support for the claimed right. The affidavit describes the afore-mentioned dam. There is no additional dam that is part of this right. Point of Diversion No. 2, described as NWNESW of Section 17, T8S, R62E, encompasses part of the claimed source downstream of the dam. Place of Use No. 2 is described as NWNESW of Section 17, T8S, R62E.

10. The means of diversion of Point of Diversion No. 2 should be described as proposed in the DNRC issue remark: "livestock direct from source."

Claim 39F 128415-00

11. The corrections proposed in the issue remarks on Claim 39F 128415-00 would result in more accurately describing the location of the claimed dam and reservoir. The original Statement of Claim and supporting affidavit indicate there is only one dam that is part of this right.

12. Point of diversion No. 2 of Claim 39F 128415-00 should be removed. Point of Diversion No. 1 and the reservoir location should be described as:

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	1	NENWNW	19	8S	62E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

*Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	NENWNW	19	8S	62E	CARTER

13. The places of use of Claim 39F 128415-00 should be described as:

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		1	NENWNW	19	8S	62E	CARTER
2		4	SESWSW	18	8S	62E	CARTER
3			NWNENW	19	8S	62E	CARTER

14. The claim uses as its basis the affidavit of James Courtney and a Notice of Appropriation filed by Elias Morris. Both documents state the source of this right is West Fork of Horse Creek. Mr. Courtney's affidavit indicates the dam is located in the NENWNW of Section 19, T8S, R62E. A review of the Source index of this basin does not yield a result for a "West Fork" of Horse Creek. Given the legal land description in the affidavit places the dam on Horse Creek, it is possible the name has been clarified since the filing of the Notice and drafting of the affidavit.

15. The source name should be described as "Horse Creek."

Claim 39F 128429-00

16. The original Statement of Claim indicates there is only one dam that is part of this right. Point of Diversion No. 2 indicates the means of diversion is a dam. Point of Diversion No. 1 is the location of the claimed dam. Point of Diversion No. 2 is therefore superfluous.

17. Point of Diversion No. 2 of Claim 39F 128429-00 should be removed.

Claim 39F 128437-00

18. The right claimed by Claim 39F 128437-00 is supported by an affidavit of E.F. Bischoff. Attached to the affidavit is an aerial image of the place of use. The following notation exists at the top of the document:

Name: Willow Dam No. 18
Location: SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 18, Township 8 South, Range 62 East.
Source: unnamed tributary of Horse Creek
Diversion: Reservoir
Use: Livestock water
Date: before 1929

19. The source name should be described as “Unnamed Tributary of Horse Creek.”

Claim 39F 128442-00

20. The original Statement of Claim and attached documents of Claim 39F 128442-00 reference only one dam associated with the claimed right.

21. Point of Diversion No. 2 indicates the means of diversion is a dam. Point of Diversion No. 1 describes the dam referenced by the Statement of Claim and attached documents.

22. Point of Diversion No. 2 appears to encompass part of the source.

23. The means of diversion of Point of Diversion No. 2 should be described as “livestock direct from source.”

Claim 39F 140501-00

24. The original Statement of Claim and attached documents of Claim 39F 140501-00 reference only one dam associated with the claimed right.

25. Point of Diversion No. 2 indicates the means of diversion is a dam. Point of Diversion No. 1 describes the dam referenced by the Statement of Claim and attached documents.

26. Point of Diversion No. 2 appears to encompass part of the source.

27. The means of diversion of Point of Diversion No. 2 should be described as “livestock direct from source.”

28. The Points of Diversion of Claim 39F 140501-00 should be described as follows, and the places of use should match these points of diversion:

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	4	SWSWSW	30	7S	62E	CARTER
Period of Diversion:		MAY 1 TO DECEMBER 1				
Diversion Means:		DAM				
2	1	NENWNW	31	7S	62E	CARTER
Period of Diversion:		MAY 1 TO DECEMBER 1				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				

Claim 39F 140508-00

29. Claim 39F 140508-00 is for a water spreading system. The use of water in such systems is dictated by availability of water rather than crop needs. Storage of water in a reservoir is often not a main component of water spreading systems and so reservoir capacities are not good indicators of whether a claimed volume is excessive. Accordingly, the claimed volume is not likely excessive.

Claim 39F 140511-00

30. Upon review of an aerial image attached to the original Statement of Claim, it appears the claimed dike may stretch into the SWNWNE of Section 24, T8S, R61E. Information to the contrary is not present in the claim file.

Claim 39F 140513-00

31. The original Statement of Claim for Claim 39F 140513-00 indicates only one dam is associated with the claimed right. It appears Point of Diversion Nos. 2 and 3 may have been an attempt to fully described the extent of that dam. An information remark is present indicating the following:

THE DAM EXTENDS INTO THE NWNENW SEC 19 AND GOVT LOT 4 (SWSW) SEC 18 TWP 8S RGE 62E CARTER COUNTY.

The legal land descriptions in this remark are the same as Points of Diversion Nos. 2 and 3. Accordingly, Points of Diversion Nos. 2 and 3 are superfluous.

32. Points of Diversion Nos. 2 and 3 should be removed from Claim 39F 140513-00.

Claim 39F 175505-00

33. The proposed change to the place of use described in the issue remark on Claim 39F 175505-00 would result in the place of use matching the point of diversion

and reservoir description. It appears the point of diversion and reservoir description were modified to refine the legal land descriptions.

34. The place of use of Claim 39F 175505-00 should be described as follows:

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NESENE	34	8S	61E	CARTER

Claim 39F 175513-00

35. The proposed change to the place of use described in the issue remark on Claim 39F 175513-00 would result in the place of use matching the point of diversion and reservoir description for this livestock reservoir.

36. The place of sue of Claim 39F 175513-00 should be described as follows:

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NENWSE	33	8S	61E	CARTER

Claim 39F 175515-00

37. The proposed changes to the reservoir record and place of use described in the issue remarks on Claim 39F 175515-00 would result in the reservoir record and place of use matching the point of diversion for this livestock reservoir.

38. The reservoir record and place of use of Claim 39F 175515-00 should be described as follows:

***Reservoir:**

ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
SESWNW	34	8S	61E	CARTER	

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SESWNW	34	8S	61E	CARTER

39. The issue remarks should be removed from each above-captioned claim.

APPLICABLE LAW

1. A properly filed statement of claim is prima facie proof of its content. Section 85-2-227, MCA. The prima facie status of a claim may be overcome by a preponderance of the evidence. Section 85-2-227, MCA; Rule 19, W.R.Adj.R. A

preponderance of the evidence is evidence that shows a fact is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

2. The Water Court must weigh an issue remark, and the information resulting in that issue remark, against the claimed water right. Section 85-2-247(2), MCA.

3. The Water Court must resolve all issue remarks not resolved through the objection process. Section 85-2-248, MCA. The Court must review information in the claim file or obtained by the Court to determine if there is a sufficient basis to resolve the remarks. 85-2-248(3), MCA.

CONCLUSIONS OF LAW

1. The changes described in the Findings of Fact may be made because the evidence in the record overcomes the prima facie status of each relevant claim by a preponderance of the evidence.

2. The evidence in the record and the proposed changes provide the Court with a sufficient basis to resolve and remove each issue remark from each above-captioned claim.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. Post-decree Abstracts of Water Right Claims are served with this Report to confirm the recommended changes have been made in the state’s centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Courtney Herefords
91 Courtney Ln
Belle Fourche, SD 57717

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 128413-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: COURTNEY HEREFORDS
91 COURTNEY LN
BELLE FOURCHE, SD 57717 5202

Priority Date: JUNE 19, 1945

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

***Source Name:** UNNAMED TRIBUTARY OF HORSE CREEK

Source Type: SURFACE WATER

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSE	17	8S	62E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

2		NWNESW	17	8S	62E	CARTER
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSE	17	8S	62E	CARTER

Diversion to Reservoir: DIVERSION # 1

Period of Use: MAY 1 TO DECEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SWSE	17	8S	62E	CARTER
2			NWNESW	17	8S	62E	CARTER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 128415-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: COURTNEY HEREFORDS
91 COURTNEY LN
BELLE FOURCHE, SD 57717 5202

Priority Date: DECEMBER 16, 1903

Type of Historical Right: FILED

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

***Source Name:** HORSE CREEK

Source Type: SURFACE WATER

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	1	NENWNW	19	8S	62E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

***Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	NENWNW	19	8S	62E	CARTER

Diversion to Reservoir: DIVERSION # 1

THE DAM EXTENDS INTO GOVT LOT 4 (SESWSW) SEC 18 TWP 08S RGE 62E AND THE NWNENW SEC 19 TWP 08S RGE 62E CARTER COUNTY.

Period of Use: JANUARY 1 TO DECEMBER 31

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		1	NENWNW	19	8S	62E	CARTER
2		4	SESWSW	18	8S	62E	CARTER
3			NWNENW	19	8S	62E	CARTER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 128429-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: COURTNEY HEREFORDS
91 COURTNEY LN
BELLE FOURCHE, SD 57717 5202

Priority Date: DECEMBER 31, 1940

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

***Source Name:** UNNAMED TRIBUTARY OF HORSE CREEK

Source Type: SURFACE WATER

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNWNE	20	8S	62E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWNWNE	20	8S	62E	CARTER

Diversion to Reservoir: DIVERSION # 1

THE DAM EXTENDS INTO THE SWSWSE SEC 17 TWP 8S RGE 62E CARTER COUNTY.

Period of Use: MAY 1 TO DECEMBER 4

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NWNWNE	20	8S	62E	CARTER
2			SWSWSE	17	8S	62E	CARTER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 128437-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: COURTNEY HEREFORDS
91 COURTNEY LN
BELLE FOURCHE, SD 57717 5202

Priority Date: DECEMBER 31, 1929

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

***Source Name:** UNNAMED TRIBUTARY OF HORSE CREEK

Source Type: SURFACE WATER

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	4	SW	18	8S	62E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

***Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SW	18	8S	62E	CARTER

Diversion to Reservoir: DIVERSION # 1

Period of Use: JANUARY 1 TO DECEMBER 31

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		4	SW	18	8S	62E	CARTER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 128442-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: COURTNEY HEREFORDS
91 COURTNEY LN
BELLE FOURCHE, SD 57717 5202

Priority Date: DECEMBER 31, 1943

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

***Source Name:** UNNAMED TRIBUTARY OF HORSE CREEK

Source Type: SURFACE WATER

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNWNE	25	7S	61E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	DAM					
2		SWSWSE	24	7S	61E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
Reservoir:	ONSTREAM					
	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
		NWNWNE	25	7S	61E	CARTER

Diversion to Reservoir: DIVERSION # 1

RESERVOIR DAM LOCATED IN NWNWNE SEC 25 AND SWSWSE SEC 24 TWP 07S
RGE 61E CARTER COUNTY.

Period of Use: MAY 1 TO DECEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NWNWNE	25	7S	61E	CARTER
2			SWSWSE	24	7S	61E	CARTER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 140501-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: COURTNEY HEREFORDS
91 COURTNEY LN
BELLE FOURCHE, SD 57717 5202

Priority Date: DECEMBER 31, 1944

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

***Source Name:** UNNAMED TRIBUTARY OF HORSE CREEK

Source Type: SURFACE WATER

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	4	SWSWSW	30	7S	62E	CARTER

Period of Diversion: MAY 1 TO DECEMBER 1

Diversion Means: DAM

2	1	NENWNW	31	7S	62E	CARTER
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Period of Diversion: MAY 1 TO DECEMBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSWSW	30	7S	62E	CARTER

Diversion to Reservoir: DIVERSION # 1

Dam Height: 13.00 FEET

Depth: 10.00 FEET

Surface Area: 3.40 ACRES

Capacity: 13.60 ACRE-FEET

THE DAM EXTENDS INTO THE NWNWNW SEC 31 TWP 7S RGE 62E CARTER COUNTY.

Period of Use: MAY 1 TO DECEMBER 1

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SWSWSW	30	7S	62E	CARTER
2			SESWSW	30	7S	62E	CARTER
3		1	NENWNW	31	7S	62E	CARTER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 140508-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: COURTNEY HEREFORDS
91 COURTNEY LN
BELLE FOURCHE, SD 57717 5202

Priority Date: DECEMBER 31, 1965

Type of Historical Right: USE

Purpose (use): IRRIGATION
Irrigation Type: WATER SPREADING

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF DIRECT FLOW WATER SPREADING.

Volume: 90.00 AC-FT
Climatic Area: 2 - MODERATELY HIGH

Maximum Acres: 60.00

***Source Name:** UNNAMED TRIBUTARY OF HORSE CREEK
Source Type: SURFACE WATER

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	4	SWSW	18	8S	62E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
4	SWSW	18	8S	62E	CARTER

Diversion to Reservoir: DIVERSION # 1

Dam Height: 10.00 FEET

Depth: 8.00 FEET

Surface Area: 2.20 ACRES

Capacity: 7.00 ACRE-FEET

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	45.00		SE	13	8S	61E	CARTER
2	10.00	2	NW	18	8S	62E	CARTER
3	5.00	3	SW	18	8S	62E	CARTER

Total: 60.00

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 140511-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: COURTNEY HEREFORDS
91 COURTNEY LN
BELLE FOURCHE, SD 57717 5202

Priority Date: DECEMBER 31, 1962

Type of Historical Right: USE

Purpose (use): IRRIGATION

Irrigation Type: WATER SPREADING

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF DIRECT FLOW WATER SPREADING.

Volume: 7.50 AC-FT

Climatic Area: 2 - MODERATELY HIGH

***Maximum Acres:** 5.00

Source Name: UNNAMED TRIBUTARY OF HORSE CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSWNE	24	8S	61E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	DIKE					
2		SWNWNE	24	8S	61E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	DIKE					
Period of Use:	JANUARY 1 TO DECEMBER 31					

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	3.00		NWSWNE	24	8S	61E	CARTER
2	1.00		NESWNE	24	8S	61E	CARTER
3	1.00		SWNWNE	24	8S	61E	CARTER
Total:	5.00						

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 140513-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: COURTNEY HEREFORDS
91 COURTNEY LN
BELLE FOURCHE, SD 57717 5202

Priority Date: DECEMBER 16, 1903

Type of Historical Right: FILED

Purpose (use): IRRIGATION
Irrigation Type: FLOOD

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

Volume: 60.00 AC-FT
Climatic Area: 2 - MODERATELY HIGH

Maximum Acres: 32.00

***Source Name:** HORSE CREEK
Source Type: SURFACE WATER

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	1	NWNW	19	8S	62E	CARTER

Period of Diversion: MAY 1 TO SEPTEMBER 1

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	NWNW	19	8S	62E	CARTER

Diversion to Reservoir: DIVERSION # 1

Dam Height: 18.00 FEET

Depth: 15.00 FEET

Surface Area: 10.10 ACRES

Capacity: 60.60 ACRE-FEET

THE DAM EXTENDS INTO THE NWNENW SEC 19 AND GOVT LOT 4 (SWSW) SEC 18
TWP 8S RGE 62E CARTER COUNTY.

Period of Use: MAY 1 TO SEPTEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	32.00		SW	18	8S	62E	CARTER

Total: 32.00

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 175505-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: COURTNEY HEREFORDS
91 COURTNEY LN
BELLE FOURCHE, SD 57717 5202

Priority Date: SEPTEMBER 1, 1937

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: UNNAMED TRIBUTARY OF NINEMILE CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NESENE	34	8S	61E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NESENE	34	8S	61E	CARTER

Diversion to Reservoir: DIVERSION # 1

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NESENE	34	8S	61E	CARTER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 175513-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: COURTNEY HEREFORDS
91 COURTNEY LN
BELLE FOURCHE, SD 57717 5202

Priority Date: OCTOBER 25, 1946

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: UNNAMED TRIBUTARY OF NINEMILE CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENWSE	33	8S	61E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENWSE	33	8S	61E	CARTER

Diversion to Reservoir: DIVERSION # 1

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NENWSE	33	8S	61E	CARTER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 175515-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: COURTNEY HEREFORDS
91 COURTNEY LN
BELLE FOURCHE, SD 57717 5202

Priority Date: JUNE 12, 1958

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: UNNAMED TRIBUTARY OF NINEMILE CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESWNW	34	8S	61E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

***Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SESWNW	34	8S	61E	CARTER

Diversion to Reservoir: DIVERSION # 1

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SESWNW	34	8S	61E	CARTER